

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KIRK D. WILLIAMS,

Plaintiff,

v.

MCDONALD'S CORPORATION,

Defendant.

No. 2:20-cv-1214 TLN DB PS

ORDER DIRECTING CLERK
TO SEND MATERIALS FOR SERVICE
AND REQUIRING SERVICE BY
UNITED STATES MARSHAL

Plaintiff Kirk Williams is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Pending before the court are plaintiff's amended complaint and motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF Nos. 1 & 2.) Therein, plaintiff complain that defendant has violated the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*, ("ADA"). The court is required to screen complaints brought by parties proceeding in forma pauperis. See 28 U.S.C. § 1915(e)(2); see also Lopez v. Smith, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc).

Here, plaintiff's amended complaint alleges that plaintiff is legally blind and that defendant's website and restaurant kiosks are inaccessible to those with vision impairment. (Am. Compl. (ECF No. 3) at 1-6.) Title III of the ADA prohibits discrimination against an individual "on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation" Roberts

1 v. Royal Atlantic Corp., 542 F.3d 363, 368 (2nd Cir. 2008); U.S.C. § 12182(a). “[T]he ADA
2 mandates that places of public accommodation . . . provide auxiliary aids and services to make
3 visual materials available to individuals who are blind.” Robles v. Domino’s Pizza, LLC, 913
4 F.3d 898, 905 (9th Cir. 2019); see also Farr v. Hobby Lobby Stores, Inc., Case No. CV 19-5949
5 DMG (ASx), 2020 WL 3978078, at *3 (C.D. Cal. Apr. 29, 2020) (“failure to furnish accessible
6 electronic information and technology, in and of itself, gives rise to an ADA violation). In this
7 regard, for purposes of screening, the undersigned finds that the amended complaint states a claim
8 for the violation of the ADA.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Plaintiff’s June 17, 2020 motion to proceed in forma pauperis (ECF No. 2) is granted.

11 2. The Clerk of the Court is directed to issue process and to send plaintiff an instruction
12 sheet for service of process by the United States Marshal, one USM-285 form, a summons form,
13 and an endorsed copy of plaintiff’s amended complaint filed July 20, 2020. (ECF No. 3.)

14 3. Within sixty (60) days after this order is served, plaintiff shall supply the U.S. Marshal
15 all information needed by the Marshal to effect service of process. The required documents shall
16 be submitted directly to the United States Marshal either by personal delivery or by mail to:
17 United States Marshals Service, 501 I Street, Suite 5600, Sacramento, CA 95814 (tel. 916-930-
18 2030). The court anticipates that, to effect service, the U.S. Marshal will require, for each
19 defendant, at least:

- 20 a. One completed summons;
21 b. One completed USM-285 form;
22 c. One copy of the endorsed complaint, with an extra copy for the U.S. Marshal;

23 and

- 24 d. One copy of the instant order.

25 4. In the event the U.S. Marshal is unable, for any reason whatsoever, to effect service on
26 a defendant within 90 days of receiving this order the Marshal is directed to report that fact, and
27 the reasons for it, to the undersigned.

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1 5. Within twenty (20) days after submitting the required materials to the United States
2 Marshals Service, plaintiff shall file with this court a declaration stating the date on which
3 plaintiff submitted the required documents to the United States Marshal. Failure to file the
4 declaration in a timely manner may result in an order imposing appropriate sanctions.

5 6. Within sixty (60) days after receiving the necessary materials from plaintiff the United
6 States Marshal is directed to serve process on defendants without prepayment of costs.

7 7. Plaintiff is cautioned that the failure to comply with this order may result in a
8 recommendation that this action be dismissed.

9 Dated: November 9, 2020

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12 DEBORAH BARNES
13 UNITED STATES MAGISTRATE JUDGE
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